

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Global Expedited Package Services 3 (MC2010-28)  
Negotiated Service Agreement

Docket No. CP2012-56

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL  
GLOBAL EXPEDITED PACKAGE SERVICES 3  
NEGOTIATED SERVICE AGREEMENT

(September 21, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1464.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of its entering into an additional Global Expedited Package Services (GEPS) 3 contract.<sup>2</sup> GEPS contracts provide incentive pricing to businesses that mail products to foreign destinations using Express Mail International (EMI), Priority Mail International (PMI), or both. Notice at 4. To qualify for a GEPS contract, a business mailer “must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.”<sup>3</sup>

Prices and classifications “not of general applicability” for GEPS contracts were previously established by Governors’ Decision No. 08-7.<sup>4</sup> In Order No. 86, the

---

<sup>1</sup> PRC Order No. 1464, Notice and Order Concerning Additional Global Expedited Package Services 3 Contract, September 13, 2012.

<sup>2</sup> Notice of United States Postal Service Filing of a Functionally Equivalent Global Expedited Package Service 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, September 11, 2012 (Notice).

<sup>3</sup> Notice of the United States Postal Service of Minor Classification Change, Docket No. MC2012-8, January 30, 2012, at 3, showing conforming changes to the draft Mail Classification Schedule, 2510.3.1.

<sup>4</sup> See Notice of United States Postal Service of Governors’ Decision Establishing Prices and Classifications for Global Expedited Package Services Contracts, Docket No. CP2008-4, May 20, 2008.

Commission established GEPS contracts as a product in the competitive product list.<sup>5</sup> The Commission subsequently approved the addition of the GEPS 3 product to the competitive product list (MC2010-28), and included within that product a GEPS contract (CP2010-71) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.<sup>6</sup> Since the addition of the GEPS 3 product to the competitive product list, the Commission has determined that additional GEPS 3 contracts were functionally equivalent to the baseline agreement and should be included in the GEPS 3 (MC2010-28) product.

In this proceeding, the Postal Service requests that the Commission add the instant contract to the GEPS 3 product based on its functional equivalence to the baseline contract in Docket No. CP2010-71. Notice at 6. The instant GEPS 3 contract is with a customer whose current GEPS—Non-Published Rates 2 agreement is scheduled to expire on September 30, 2012. *Id.* at 3. If approved, the instant contract would expire one year after the intended effective date, October 1, 2012. *Id.*

## COMMENTS

The Public Representative has reviewed the instant GEPS 3 contract and supporting financial model filed under seal that accompanies the Postal Service's Notice. Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears the negotiated prices in the instant contract should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

*Functional Equivalence.* The Postal Service asserts that the instant contract “shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-71, which serves as the baseline agreement for the GEPS 3 product grouping.” *Id.* However, the Postal Service identifies differences between the instant contract and

---

<sup>5</sup> See PRC Order No. 86, Order Concerning Global Expedited Package Services Contracts, Docket No. CP2008-5, June 27, 2008.

<sup>6</sup> See PRC Order No. 503, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, Docket Nos. MC2010-28 and CP2010-71, July 29, 2010.

the GEPS 3 baseline contract, including: Revisions to Articles 2, 6, 7 and 10 that limit the Option B postage payment to permit imprint using USPS-provided Global Shipping Software; in Article 4, the exclusion of Flat Rate items from Qualifying Mail;<sup>7</sup> in Article 10, a revised option for tendering Qualifying Mail; in Article 12, a revision concerning the possibility of terminating the agreement pursuant to Article 14 modifications; in Article 19, a reference to PRC Docket Numbers ACR 2012, ACR 2013, and ACR 2014, in which the Postal Service may file confidential information in connection with the contract; and, the addition of Article 21 concerning Intellectual Property, Co-Branding, and Licensing. *Id.* at 4-5. The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.* at 6. The Public Representative agrees and concludes that the instant contract is functionally equivalent to the baseline agreement.

*Requirements of 39 U.S.C. § 3633.* Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's Notice, it appears the negotiate prices in the instant GEPS 3 contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

---

<sup>7</sup> The wording of Article 4, when read on its own, lends itself to an interpretation that Flat Rate items are included as Qualifying Mail.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

---

James F. Callow  
Public Representative

901 New York Ave. NW  
Washington, DC 20268-0001  
202-789-6839  
callowjf@prc.gov